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# ***Public Utilities Commission of the State of California***

## ***Public Agenda 3128***

***Wednesday, February 11, 2004 10:00 a.m.***

***San Francisco, California***

### **Commissioners**

**Michael R. Peevey, President**

**Geoffrey F. Brown**

**Susan P. Kennedy**

**Loretta M. Lynch**

**Carl W. Wood**

*For each agenda item, a summary of the proposed action is included; the Commission's decision may, however, differ from that proposed.*

*Website: <http://www.cpuc.ca.gov>*

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### **Scheduled Commission Meetings 505 Van Ness Avenue, San Francisco**

<i>Ratesetting Deliberative Meeting*</i> <i>Room 5305</i> <i>(1:30 p.m.)</i> <b><i>Closed to the Public</i></b>	<i>Commission Meeting</i> <i>Auditorium</i> <i>(10 a.m.)</i> <b><i>Open to the Public</i></b>
Monday, February 23, 2004 (San Francisco)	Wednesday, February 11, 2004 (San Francisco)
Friday, March 12, 2004 (San Francisco)	Thursday, February 26, 2004 (San Francisco)
Monday, March 29, 2004 (San Francisco)	Tuesday, March 16, 2004 (San Francisco)
	Thursday, April 01, 2004 (San Francisco)

*\*Ratesetting Deliberative Meeting dates are reserved as noted but will be held only if there are ratesetting matters to be considered and a Commissioner has requested that a Ratesetting Deliberative Meeting be held.*

### ***Matters of Public Interest***

***For the convenience of the public and media representatives, items of widespread public interest will be taken up at the beginning of the meeting.***

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## PUBLIC COMMENT

**The following items are not subject to public comment:**

- All items on the closed session agenda.
- 31, 48

**Public Comment:**

## Consent Agenda

*Items shown on the Consent Agenda will be taken up and voted on as a group in one of the first items of business of each Commission meeting. Items may be removed from the Consent Agenda for discussion on the Regular Agenda at the request of any Commissioner prior to the meeting.*

### Consent Agenda - Orders and Resolutions

- |                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|--------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>1</b><br>[3142] | <b>Res TL - 19038</b><br>Resolution approving issuance of charter-party carrier certificates pursuant to Section 5374(b) of the Public Utilities Code.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| <b>2</b><br>[3143] | <b>Res ALJ 176-3128</b><br>Ratification of preliminary determination of category for proceedings initiated by application. The preliminary determinations are pursuant to Article 2.5, Rules 4 and 6.1 of the Commission's Rules of Practice and Procedure.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| <b>3</b><br>[2894] | <b>A03-04-002 - Citizens Telecommunications Company of California, Inc., dba Frontier Communications of California (Citizens).</b><br>This decision requires Citizens to reimburse the Commission for the costs of an audit to be performed by consultants working for the Commission's Office of Ratepayer Advocates. In addition, the decision adopts an all-party settlement regarding modifications of the New Regulatory Framework (NRF) reporting requirements. Citizens is ordered to refile no later than 90 days after final decisions are adopted in R01-09-001 and I01-09-002, the NRF review for SBC California and Verizon California Incorporated. This proceeding is closed.<br>(Comr Peevey - ALJ O'Donnell)<br><i>Pub. Util. Code § 311 – This item was mailed for Public Comment.</i><br><i>Pub. Util. Code §1701.1 -- This proceeding is categorized as Ratesetting.</i><br>Agenda 3124, Item 6 12/4/2003 (Peevey);<br>Agenda 3125, Item 1 12/18/2003 (Staff);<br>Agenda 3126, Item 3 1/8/2004 (Lynch);<br>Agenda 3127, Item 3 1/22/2004 (Lynch)<br><a href="http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=166641">http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=166641</a> |

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Consent Agenda - Orders and Resolutions (continued)

- 4**  
[3022]      **A02-07-031 - Southern California Edison Company (Edison).**  
This decision authorizes 23 proposed leases by Edison to Cingular Wireless, under two agreements, of locations for the attachment of antennas and antenna equipment, authorizes use of one of the agreements for future such leases, orders that certain confidential terms in the agreements be filed under seal but requires that Edison file an application for approval under § 851 before making any substantive amendments to the agreements. This proceeding is closed.  
(Comr Brown - ALJ Vieth)  
*Pub. Util. Code § 311 – This item was mailed for Public Comment.*  
*Pub. Util. Code §1701.1 -- This proceeding is categorized as Ratesetting.*  
Agenda 3126, Item 10 1/8/2004 (Wood);  
Agenda 3127, Item 4 1/22/2004 (Wood)  
[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=162598](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=162598)
- 5**  
[3059]      **A02-10-029 - Southern California Edison Company (Edison).**  
This decision authorizes, under several agreements, 25 proposed leases by Edison to Verizon Wireless of excess space at communication facility sites or antenna and antenna equipment attachment locations. The decision also authorizes use of the master site agreement and master attachment agreement, and their associated standard agreements, for future such leases and orders that certain confidential terms in the agreements be filed under seal, but requires that Edison file an application for approval under §851 before making any substantive amendments to the agreements. This proceeding is closed.  
(Comr Brown - ALJ Vieth)  
*Pub. Util. Code § 311 – This item was mailed for Public Comment.*  
*Pub. Util. Code §1701.1 -- This proceeding is categorized as Ratesetting.*  
Agenda 3126, Item 13 1/8/2004 (Wood);  
Agenda 3127, Item 5 1/22/2004 (Wood)  
[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=162198](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=162198)
- 6**  
[3109]      **Res T-16819 - SBC California (SBC).**  
This resolution authorizes SBC an increase in rates for six rate elements of Network Reconfiguration Service (NRS) in conjunction with changes to NRS necessitated by new software requirements. The old software is not supported and obsolete. (Advice Letter (AL) 24303 and AL 24303A filed on October 20, 2003 and October 22, 2003, respectively)  
*Pub. Util. Code § 311 – This item was mailed for Public Comment.*  
Agenda 3127, Item 9 1/22/2004 (Lynch)  
[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=165819](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=165819)

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Consent Agenda - Orders and Resolutions (continued)

- 7**  
[3084] **A03-07-015 - City of San Marcos.**  
This decision grants the City of San Marcos authority to construct a grade-separated highway-rail crossing at a new alignment of Las Flores Drive across the North County Transit District's Escondido Subdivision main line in the City of San Marcos, San Diego County. This proceeding is closed.  
(Exam Clark)  
*Pub. Util. Code §1701.1 -- This proceeding is categorized as Ratesetting.*  
[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=163308](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=163308)
- 8**  
[3159] **A01-08-036 - Teligent Services, Inc. (Teligent).**  
For authority to discontinue the provision of local exchange and data services. A01-09-018 - Related matters. This decision grants Teligent's Petition for Modification of D01-10-062 to recognize that Teligent did not utilize the transfer of control authorization granted to facilitate its emergence from bankruptcy protection. This consolidated matter is closed.  
(Comr Wood - ALJ Reed)  
*Pub. Util. Code §1701.1 -- This proceeding is categorized as Ratesetting.*  
[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=158764](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=158764)
- 9**  
[3160] **C03-08-013 - John J. Bassett vs. George W. Woods, Jr.**  
This complaint by a mobilehome park resident against the park owner is dismissed for failure to state a cause of action for which relief can be granted by this Commission. The dispute between the parties is currently being litigated in Superior Court. This proceeding is closed.  
(Comr Kennedy - ALJ Walker)  
*Pub. Util. Code § 311 -- This item was mailed for Public Comment.*  
*Pub. Util. Code §1701.1 -- This proceeding is categorized as Adjudicatory.*  
[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=165937](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=165937)
- 10**  
[3164] **Res W-4456 - Twin Valley Water Company (TVWC).**  
This resolution authorizes TVWC a one-time surcharge to recover an increase testing costs and Department of Health Services fees producing an increase in annual revenue of \$5,934 or 5.08%.  
(Advice Letter 19, filed December 3, 2003)  
[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=162455](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=162455)
- 11**  
[3167] **(ECP) C03-05-010 - William Leach vs. Pacific Gas and Electric Company (PG&E).**  
This decision denies petition of William Leach to modify D03-08-015 to require PG&E to relocate the service line to his water pump for \$500. This proceeding is closed.  
(Comr Lynch - ALJ Patrick)  
[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=161322](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=161322)

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Consent Agenda - Orders and Resolutions (continued)

- 12**  
[3186]      **C01-07-027 - California ISP Association, Inc. vs. Pacific Bell Telephone Company; SBC Advanced Solutions, Inc., and Does 1-20.**  
This decision grants The Utility Reform Network and the Utility Consumers' Action Network an award of \$22,777.11 in compensation for substantial contributions to D03-07-032. This proceeding is closed.  
(Comr Lynch - ALJ Duda)  
*Pub. Util. Code §1701.1 -- This proceeding is categorized as Adjudicatory.*  
[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=162073](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=162073)
- 13**  
[3187]      **Res W-4458 - California Water Service Company (CWSC), Stockton District.**  
This resolution authorizes CWSC, Stockton District, an offset rate increase producing additional annual revenues of \$718,100 or 3.9% for increases in the cost of purchased water and pump tax.  
(Advice Letter 1591, filed October 24, 2003)  
[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=159291](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=159291)
- 14**  
[3188]      **(ECP) C03-05-027 - Marcia K. Houghton and Joe M. Vedda vs. Villa Madeira Park and Joe Mecaro, its manager.**  
Complaint for refund of electric overcharges. Held: Defendant is ordered to pay complainants \$80.57 as a result of overcharges. This proceeding is closed.  
(Comr Wood - ALJ Barnett)  
[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=163401](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=163401)
- 15**  
[3189]      **R01-08-028 - Order Instituting Rulemaking to examine the Commission's future energy efficiency policies, administration and programs.**  
This decision awards the Natural Resources Defense Council \$23,665.00 for its contribution to several energy efficiency decisions issued by the Commission in the past few years, D01-11-066, D02-03-056, D03-04-055, D03-07-034, and D03-08-067.  
(Comr Kennedy - ALJ Malcolm)  
*Pub. Util. Code §1701.1 -- This proceeding is categorized as Quasi-Legislative.*  
[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=165772](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=165772)

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Consent Agenda - Orders and Resolutions (continued)

- 16**  
[3190] **R02-01-011 - Order Instituting rulemaking regarding the implementation of the suspension of direct access pursuant to Assembly Bill 1X and D01-09-060.**  
This decision awards The Utility Reform Network \$219,866.00 for its contribution to D02-03-055, D02-04-067, D02-11-022, D02-12-027, D03-04-030, D03-05-034, D03-06-035, D03-07-030, D03-07-028 and D03-08-076.  
(Comr Brown, Comr Wood - ALJ Pulsifer)  
*Pub. Util. Code §1701.1 -- This proceeding is categorized as Ratesetting.*  
[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=161884](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=161884)
- 17**  
[3191] **A98-07-003 - Pacific Gas and Electric Company.**  
For verification, consolidation, and approval of costs and revenues in the transition revenue account.  
This decision awards The Utility Reform Network \$44,140.50 for its contribution to D01-09-060, D02-07-032, D03-02-035, D03-08-061, D03-09-016, and Res E-3790 (November 7, 2002).  
(Comr Wood - ALJ Barnett)  
*Pub. Util. Code §1701.1 -- This proceeding is categorized as Ratesetting.*  
[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=161230](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=161230)
- 18**  
[3192] **Res T-16769**  
Voluntary revocation of the following carriers: Missions Telecommunications Corp. (CPCN#(4059); OneStar Long Distance, Inc. (#4299); Univance Telecommunications, Inc. (#5851); Telephone Service, Inc. (#5913); A4 Data & Communications, LLC (#6064); Essential.com (#6305); Totalaccess.com, Inc. (#6317); Enron Telecommunications, Inc. (#6379); TeleDirect Telecommunications Group, LLC (#6410); T-NETIX Internet Services, Inc. (#6443); Transport Communications (#6513); Pinnacles Long Distance (#6514); Lightwave Communications, LLC (#6553).  
[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=163319](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=163319)
- 19**  
[3194] **Res W-4459 - Sereno Del Mar Water Company (SDM).**  
This resolution authorizes SDM a general rate increase producing additional annual revenue of \$1,633, or 2.17% in 2003.  
[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=163612](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=163612)

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Consent Agenda - Orders and Resolutions (continued)

- 20** **A03-11-008 - Integrated Telemanagement Services, Inc., dba Omnicom (Applicant).**  
[3195] This decision grants Applicant a certificate of public convenience and necessity to provide limited facilities-based local exchange telecommunications services. Applicant was previously authorized to resell local exchange and interexchange services. This proceeding is closed.  
(Comr Kennedy - ALJ O'Donnell)  
*Pub. Util. Code §1701.1 -- This proceeding is categorized as Ratesetting.*  
[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=166104](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=166104)
- 21** **A02-03-061 - Southern California Gas Company.**  
[3196] For authority to offer a new service at tariffed rates, terms, and conditions allowing carriers to place fiber optic cable in gas pipelines. A02-03-062 - Related matters. This decision grants \$7,754.21 to The Utility Reform Network in compensation for substantial contributions to D03-10-017. These proceedings are closed.  
(Comr Peevey - ALJ Fukutome)  
*Pub. Util. Code §1701.1 -- This proceeding is categorized as Ratesetting.*  
[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=163259](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=163259)
- 22** **Res W-4460 - Point Arena Water Works, Inc. (PAWW).**  
[3201] This resolution authorizes PAWW an increase in the surcharge rates authorized in Res W-4233.  
(Advice Letter 44, filed October 10, 2002)  
[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=156702](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=156702)
- 23** **A03-10-008 - Saigon V.I.P. Transportation, LLC (Applicant).**  
[3205] This decision authorizes Applicant to operate as a passenger stage corporation between (1) the Counties of Los Angeles and Orange, on the one hand, and Los Angeles International, Ontario International, John Wayne, and Long Beach Airports, and Los Angeles and Long Beach Harbors, on the other hand; (2) hotels and motels in Anaheim and shopping malls in Anaheim and nearby cities; and (3) the Counties of San Diego, Orange, Los Angeles, Santa Clara, and San Francisco; and to establish a zone of rate freedom. This proceeding is closed.  
(Exam Clark)  
*Pub. Util. Code §1701.1 -- This proceeding is categorized as Ratesetting.*
- 24** **A03-09-026 - Bart Mulvihill and West Valley Airporters, Inc.**  
[3206] This decision authorizes Bart Mulvihill to transfer his passenger stage corporation certificate to West Valley Airporters, Inc. This proceeding is closed.  
(Exam Clark)  
*Pub. Util. Code §1701.1 -- This proceeding is categorized as Ratesetting.*

## Consent Agenda - Orders and Resolutions (continued)

- 25**                    **Res O-0045 - Shell California Pipeline Company LLC (Shell California).**  
[3208]                This resolution approves Shell California's request to increase rates on their LAX Products System and their Ventura Products System. (Advice Letter 4, filed November 14, 2003)
- 26**                    **A03-08-010 - PAXIO, Inc. (Applicant).**  
[3215]                This decision grants Applicant a certificate of public convenience and necessity to offer limited facilities-based and resold competitive local exchange and interexchange telecommunications services. This proceeding is closed.  
                         (Comr Lynch - ALJ Bemmesderfer)  
                         *Pub. Util. Code §1701.1 -- This proceeding is categorized as Ratesetting.*  
                         [http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=165903](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=165903)



## Regular Agenda

### Regular Agenda - Energy Orders

- 27**  
[2870]      **R01-05-047 - Order Instituting Rulemaking on the Commission's own motion to determine whether baseline allowances for residential usage of gas and electricity should be revised.**
- This decision adopts a program whereby lower-middle income households may be exempt from Tier 3 electric surcharges, requires baseline quantities to be adjusted to exclude seasonal residence usage, requires that residential common area accounts be given the option to switch to commercial service, and requires utilities to update their rates, if needed, to comply with AB 1X. This proceeding is closed. (Comr Brown - ALJ TerKeurst)
- Pub. Util. Code § 311 – This item was mailed for Public Comment.*
- Pub. Util. Code §1701.1 -- This proceeding is categorized as Ratesetting.*
- Agenda 3123, Item 32 11/13/2003 (Staff);
- Agenda 3124, Item 38 12/4/2003 (Staff);
- Agenda 3125, Item 49 12/18/2003 (Kennedy);
- Agenda 3126, Item 45 1/8/2004 (Kennedy)
- [http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=162168](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=162168)
- 
- 28 (Rev.)**  
[2881]      **A02-02-012 - Southwest Gas Corporation.**
- For authority to increase rates in San Bernardino, Placer, El Dorado, and Nevada Counties. This decision grants increases of \$2.8 million in Southern California and \$3.8 million in Northern California. This proceeding is closed. (Comr Peevey - ALJ DeBerry)
- Pub. Util. Code § 311 – This item was mailed for Public Comment.*
- Pub. Util. Code §1701.1 -- This proceeding is categorized as Ratesetting.*
- Agenda 3124, Item 40 12/4/2003 (Lynch);
- Agenda 3126, Item 46 1/8/2004 (Lynch);
- Agenda 3127, Item 16 1/22/2004 (Wood)
- 02/09/2004 - This revision was not shown on the Agenda mailed to the public.
- [http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=166538](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=166538)
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- 28a**  
[3227]      **ALTERNATE TO ITEM 2881**
- This alternate decision grants increases of \$1.73 million for Southwest Gas Corporation's Southern California Division and \$3.47 million for its Northern California Division, based on differences with the proposed decision in the areas of capital structure, pipeline replacement program, and rate base. The alternate also adopts a disallowance of \$12.18 million of Southwest Gas' natural gas procurement costs incurred during the winter of 2001-2002. This proceeding is closed. (Comr Lynch)

## Regular Agenda - Energy Orders (continued)

**29**

[2882]

**R02-01-011 - Order Instituting Rulemaking regarding the implementation of the suspension of direct access pursuant to Assembly 1X and D01-09-060.**

This decision denies the Petition to Modify D03-04-057 filed by SBC Services, University of California/California State University, and California Large Energy Consumers Association, and also denies the Petition to Clarify D02-03-055 filed by Southern California Edison. The decision calls for additional comments to develop the record.

(Comr Brown, Comr Wood - ALJ Pulsifer)

*Pub. Util. Code § 311 – This item was mailed for Public Comment.*

*Pub. Util. Code §1701.1 -- This proceeding is categorized as Ratesetting.*

Agenda 3123, Item 33 11/13/2003 (Staff);

Agenda 3124, Item 41 12/4/2003 (Brown);

Agenda 3126, Item 47 1/8/2004 (Kennedy);

Agenda 3127, Item 17 1/22/2004 (Brown)

[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=163737](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=163737)

**30**

[2910]

**A03-05-012 - Pacific Gas and Electric Company (PG&E).**

PG&E seeks Commission approval pursuant to Pub. Util. Code §851 of certain licenses and leases of PG&E property already in effect (the “agreements” or “transactions”). In total PG&E seeks approval of 256 transactions. Most of these agreements were entered into several years ago. Each permits various uses of PG&E property by third parties. The transactions did not have prior approval of the Commission pursuant to Pub. Util. Code §851. PG&E states that it discovered many of these agreements in various branch office files while conducting an extensive search in the PG&E bankruptcy proceeding. Because the 256 transactions may implicate environmental review or may not meet the criteria for General Order (GO) 69-C transactions, PG&E states that it decided it would be prudent to seek formal approval of the transactions under Section 851. In addition, PG&E asserts that Commission environmental review under the California Environmental Quality Act (CEQA) is unnecessary because the majority of the transactions fit within CEQA exemptions, nine received adequate local CEQA review, and six pre-date CEQA and are thus not subject to its requirements. This decision grants Section 851 approval for 255 of the transactions on a prospective basis. The Commission notes one of the transactions fits within recent Commission decisions finding agreements allowing floating boat docks as appropriate under GO 69-C. Therefore, Commission's approval here is not required. The decision declines to impose a penalty for failure to obtain prior approval of the transactions. With respect to CEQA, the Commission notes that because all of the agreements are several years old, any activity which may have warranted Commission's environmental review has long since occurred. Accordingly, Commission's CEQA review at this time has little value for practical purposes. Nevertheless, the Commission will address the CEQA issues raised by PG&E and determine where possible, the applicability of the claimed exemptions. This proceeding is closed.

(Comr Kennedy - ALJ Walker)

*Pub. Util. Code § 311 – This item was mailed for Public Comment.*

*Pub. Util. Code §1701.1 -- This proceeding is categorized as Ratesetting.*

Agenda 3124, Item 42 12/4/2003 (Kennedy);

Agenda 3127, Item 18 1/22/2004 (Wood)

## Regular Agenda - Energy Orders (continued)

**31** **I01-08-029 - Order Instituting Investigation into Southern California Edison Company's electric line construction, operation, and maintenance practices. Southern California Edison Company (Edison), Respondent.**  
 [3003]

This decision fines Edison a total of \$576,000, primarily for 25 violations of the Commission's General Order (GO) 95 and GO 128 specifying the requirements for the construction, operation, and maintenance of overhead and underground utility systems. The decision fines Edison \$20,000 for each of these 25 violations that have a nexus with an accident involving death, injury, or property damage. It also fines Edison \$1,000 for each of 56 violations of GO 165 for failure to identify unsafe conditions and \$20,000 for one violation for exceeding GO 165's inspection intervals. This decision also grants the intervention of the California Cable and Telecommunications Association (CCTA), Pacific Gas and Electric Company (PG&E), and San Diego Gas & Electric Company (SDG&E). It also considers and rejects the appeals to the presiding officer's decision of Edison, the Commission's Consumer Protection and Safety Division, CCTA, P&GE, and SDG&E. This proceeding is closed.

(Comr Kennedy - ALJ Econome)

*Pub. Util. Code § 1701.2(c), allows this modified Presiding Officer's Decision to be considered in Closed Session.*

*Pub. Util. Code §1701.1 -- This proceeding is categorized as Adjudicatory.*

Agenda 3124, Item 47 12/4/2003 (Kennedy);

Agenda 3127, Item 22 1/22/2004 (Kennedy)

[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=158058](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=158058)

**32** **R02-11-039 - Rulemaking to implement the provisions of Public Utilities Code Section 761.3 enacted by Chapter 19 of the 2001-02 Second Extraordinary Legislative Session.**  
 [3051]

This order denies the October 14, 2003 motion of Sempra Energy to be removed from the list of respondents. The proceeding remains open.

(Comr Wood - ALJ Mattson)

*Pub. Util. Code § 311 -- This item was mailed for Public Comment.*

*Pub. Util. Code §1701.1 -- This proceeding is categorized as Quasi-Legislative.*

Agenda 3125, Item 42 12/18/2003 (Peevey);

Agenda 3126, Item 49 1/8/2004 (Staff);

Agenda 3127, Item 23 1/22/2004 (Staff)

**32a** **ALTERNATE TO ITEM 3051**

[3175] This alternate order grants the October 14, 2003 motion of Sempra Energy. Sempra Energy is removed from the list of respondents, and removed from the service list. This proceeding remains open.

(Comr Peevey)

Agenda 3127, Item 23a 1/22/2004 (Staff)

[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=162487](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=162487)

## Regular Agenda - Energy Orders (continued)

**33 A01-03-008 - Pacific Gas and Electric Company (PG&E).**

[3054]

This decision denies the petition of PG&E for modification of D03-05-077 on the ground that the petition raises no issue of fact or law that warrant such modification. D03-05-077 correctly states that the installation of optical fiber and related telecommunications equipment on existing utility structures by third-party telecommunications providers is not categorically exempt from environmental review under the California Environmental Quality Act. D03-05-077 contains no factual errors relating to the use of the fiber optics, and correctly cites Commission precedent. This proceeding is closed.

(Comr Lynch - ALJ Thomas)

*Pub. Util. Code § 311 – This item was mailed for Public Comment.*

*Pub. Util. Code §1701.1 -- This proceeding is categorized as Ratesetting.*

Agenda 3126, Item 12 1/8/2004 (Kennedy)

[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=163423](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=163423)

**34 R02-01-011 - Order Instituting Rulemaking regarding the implementation of the suspension of direct access pursuant to Assembly Bill 1X and D01-09-060.**

[3077]

This decision grants in part and denies in part the Petition to Modify D03-04-057, filed on September 25, 2003 by Alliance for Retail Energy Markets and Western Power Trading Forum. The decision grants the request to relieve ESPs of the requirement to sign an affidavit attesting to the compliance of DA customers with DA load suspension rules. The decision denies the request to modify the load relocation and replacement requirements to permit a DA customer to calculate the net change in DA load from all replacements and relocations in facilities within its utility-specific service territory. The Decision interprets D03-04-057 as permitting more than one account to count as replacement for a relocated account provided that documentation is provided that records are kept to demonstrate that the relocated accounts were all closed, and that the load on the new accounts at the replacement locations matches the total load of the closed accounts (subject to the flexibility granted in D03-05-057 for cases where the relocated load(s) are slightly larger). The customer, however, shall not apply reductions in DA load from any of its continuing DA accounts and/or facilities to count toward offsetting increases in DA load at newly constructed facilities and/or through replacement accounts.

(Comr Brown, Comr Wood - ALJ Pulsifer)

*Pub. Util. Code § 311 – This item was mailed for Public Comment.*

*Pub. Util. Code §1701.1 -- This proceeding is categorized as Ratesetting.*

Agenda 3126, Item 75 1/8/2004 (Kennedy);

Agenda 3127, Item 25 1/22/2004 (Kennedy)

[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=162388](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=162388)

## Regular Agenda - Energy Orders (continued)

**34a ALTERNATE TO ITEM 3077**

[3163]

This alternate adopts the initial ALJ's draft decision. It differs from the current ALJ draft decision in that it denies the requested modification seeking to eliminate the account-by-account requirements associated with Direct Access customers' relocations or facility replacements.

(Comr Wood)

Agenda 3126, Item 75a 1/8/2004 (Kennedy);

Agenda 3127, Item 25a 1/22/2004 (Kennedy)

**34b ALTERNATE TO ITEM 3077**

[3178]

This decision grants the Petition to Modify D03-04-057, filed on September 25, 2003 by Albertson's Inc., Alliance for Retail Energy Markets and Western Power Trading Forum. The decision grants the request to relieve ESPs of the requirement to sign an affidavit attesting to the compliance of DA customers with DA load suspension rules. The decision also grants the request to modify the load relocation and replacement requirements to permit a DA customer to calculate the net change in DA load from all replacements and relocations in facilities within its utility-specific service territory.

(Comr Kennedy)

Agenda 3127, Item 25b 1/22/2004 (Kennedy)

[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=162690](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=162690)

**35 (Rev.) A99-04-024 - Southern California Edison Company (Edison).**

[3079]

This decision is adopting \$31,782,000 for Edison in capital additions for non-nuclear plant for safety, regulatory and environmental purposes, and approving \$20,434,000 in capital additions in divested plants to maintain plant, but finding that these capital additions have already been recovered through gain on sale. The decision allows Edison to recover \$1.5 million of return and taxes on adopted capital additions. A99-04-024 is closed.

(Comr Lynch - ALJ DeBerry)

*Pub. Util. Code § 311 – This item was mailed for Public Comment.*

*Pub. Util. Code §1701.1 -- This proceeding is categorized as Ratesetting.*

Agenda 3127, Item 26 1/22/2004 (Staff)

02/09/2004 - This revision was not shown on the Agenda mailed to the public.

[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=165683](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=165683)

## Regular Agenda - Energy Orders (continued)

**36 A01-03-036 - San Diego Gas & Electric Company (SDG&E).**

[3083]

For a certificate of public convenience and necessity to construct Valley-Rainbow 500kV Inter-Connect Project. This decision awards Save Southwest Riverside County (SSRC) \$43,867.65 for time spent on rehearing applications related to and a petition for modification of D02-12-066. The Commission resolved the applications for rehearing in D03-05-038, and the petition for modification in D03-06-030. This amount is \$18,384.10 less than SSRC's requested amount of \$62,251.75. The decision has reduced SSRC's request because the Commission finds that SSRC worked inefficiently, and thus did not meet the requirement that requested intervenor compensation be "reasonable," and spent a small amount of time on a non-compensable activity - communicating with the press. This proceeding is closed.

(Comr Kennedy - ALJ Cooke)

*Pub. Util. Code § 311 – This item was mailed for Public Comment.*

*Pub. Util. Code §1701.1 -- This proceeding is categorized as Ratesetting.*

[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=165748](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=165748)

**37 A03-06-040 - Southern California Gas Company (SoCalGas).**

[3181]

In compliance with Resolution G-3334 for a system of firm, tradable receipt point capacity rights and related provisions. This decision adopts tariffs that implement the Comprehensive Settlement Agreement adopted in D01-12-018. The tariffs implement a market and regulatory framework for regulating the transportation and storage of natural gas on SoCalGas' system. This decision also denies a petition to vacate D01-12-018. This proceeding is closed.

(Comr Brown - ALJ DeUlloa)

*Pub. Util. Code § 311 – This item was mailed for Public Comment.*

*Pub. Util. Code §1701.1 -- This proceeding is categorized as Ratesetting.*

**38 A03-06-014 - Southern California Edison Company (SCE).**

[3184]

Pursuant to Pub. Util. Code Section 851, this decision grants SCE's application to lease land to RHC Communities, LLC for construction of self-storage facilities. The decision will require SCE to modify the terms of the lease in order to protect its utility customers. If these changes are made, the Commission finds that the lease will not impair SCE's ability to serve its customers, and will not harm the environment. As SCE proposes, the gross lease proceeds shall be allocated to SCE's shareholders and ratepayers respectively, according to a 70 percent – 30 percent split. This proceeding is closed.

(Comr Kennedy - ALJ Thomas)

*Pub. Util. Code § 311 – This item was mailed for Public Comment.*

*Pub. Util. Code §1701.1 -- This proceeding is categorized as Ratesetting.*

[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=162851](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=162851)

## Regular Agenda - Telecommunication Orders

**39**

[2376]

**R01-09-001 - Order Instituting Rulemaking on the Commission's own motion to assess and revise the new regulatory framework for Pacific Bell (Pacific) and Verizon California Incorporated.**

I01-09-002 - Related matters. This proposed decision addresses Phase 2A audit issues. The proposed decision finds that Pacific properly reported its pension and depreciation expenses during 1997 - 1999, but misreported its expenses during this period for PBOPs and income taxes. The proposed decision also finds that Pacific improperly withdrew funds from one of its PBOP trusts in 1999. These findings result in Pacific owing a refund to its ratepayers.

(Comr Kennedy - ALJ Kenney)

*Pub. Util. Code § 311 – This item was mailed for Public Comment.*

*Pub. Util. Code §1701.1 -- This proceeding is categorized as Ratesetting.*

Agenda 3123, Item 38 11/13/2003 (Staff);

Agenda 3125, Item 67 12/18/2003 (Staff);

Agenda 3126, Item 55 1/8/2004 (Kennedy);

Agenda 3127, Item 31 1/22/2004 (Peevey)

[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=166466](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=166466)

**39a (Rev.)**

[2378]

**ALTERNATE TO ITEM 2376**

The proposed alternate decision of the assigned Commissioner finds that Pacific Bell properly reported its pension and depreciation expenses during 1997-1999. The alternate finds that Pacific Bell properly wrote off certain PBOP's regulatory assets as expenses in 1998 when the Commission eliminated a rate surcharge that supported this regulatory asset. On other issues, the alternate finds that Pacific misreported expenses during this period concerning PBOPs sub-accounts and concerning income taxes. The alternate decision also finds that Pacific improperly withdrew funds from one of its PBOP trusts in 1999 and orders their restoration. Compared to the Administrative Law Judge's proposed decision, the alternate decision finds a lower level of misreported costs.

(Comr Kennedy)

Agenda 3123, Item 38a 11/13/2003 (Staff);

Agenda 3125, Item 67a 12/18/2003 (Staff);

Agenda 3126, Item 55a 1/8/2004 (Kennedy);

Agenda 3127, Item 31a 1/22/2004 (Peevey)

02/09/2004 - This revision was not shown on the Agenda mailed to the public.



## Regular Agenda - Telecommunication Orders (continued)

**40**

[2513]

**R00-02-004 - Order Instituting Rulemaking on the Commission's own motion to establish consumer rights and consumer protection rules applicable to all telecommunications utilities.**

The Commission adopts General Order No. ###, Rules Governing Telecommunications Consumer Protection, applicable to all Commission-regulated telecommunications utilities. G.O. ### sets forth: in Part 1, a telecommunications consumers' Bill of Rights; in Part 2, a set of Consumer Protection Rules all carriers must follow to protect those rights; in Part 3, Rules Governing Billing for Non-communications-Related Charges; and in Part 4, Rules Governing Slamming Complaints. The proceeding remains open to consider changes to the current limitation of liability provisions, rules protecting non-English speaking consumers, and a telecommunications consumer education program. (Comr Wood - ALJ McVicar)

*Pub. Util. Code § 311 – This item was mailed for Public Comment.*

*Pub. Util. Code §1701.1 -- This proceeding is categorized as Quasi-Legislative.*

Agenda 3119, Item 40 9/18/2003 (Staff);

Agenda 3120, Item 45 10/2/2003 (Brown);

Agenda 3122, Item 38 10/30/2003 (Brown);

Agenda 3124, Item 53 12/4/2003 (Wood);

Agenda 3125, Item 69 12/18/2003 (Peevey);

Agenda 3127, Item 32 1/22/2004 (Staff)

[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=161237](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=161237)

**41**

[2571]

**A99-03-025 - Roseville Telephone Company (Roseville).**

On May 3, 2002, Roseville filed a petition to modify D01-06-077. Specifically, it asks to remove the requirement to share 50% of its earnings between the benchmark rate of return and the ceiling rate of return. This decision denies the petition and also requires Roseville to file for its next NRF review no later than 90 days after a final decision in Rulemaking 01-09-001 and Investigation 01-09-002, the NRF reviews for Pacific Bell Telephone Company and Verizon California Incorporated. This proceeding is closed.

(Comr Lynch - ALJ O'Donnell)

*Pub. Util. Code § 311 – This item was mailed for Public Comment.*

*Pub. Util. Code §1701.1 -- This proceeding is categorized as Ratesetting.*

Agenda 3118, Item 42 9/4/2003 (Kennedy);

Agenda 3120, Item 46 10/2/2003 (Kennedy);

Agenda 3122, Item 39 10/30/2003 (Brown);

Agenda 3123, Item 39 11/13/2003 (Lynch);

Agenda 3124, Item 54 12/4/2003 (Brown);

Agenda 3125, Item 68 12/18/2003 (Lynch);

Agenda 3126, Item 56 1/8/2004 (Wood);

Agenda 3127, Item 33 1/22/2004 (Peevey)

[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=163539](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=163539)



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Regular Agenda - Telecommunication Orders (continued)**41a                   ALTERNATE TO ITEM 2571**

[2880]           This alternate modifies D01-06-077 to suspend the requirement to share 50% of its earnings between the benchmark rate of return and the ceiling rate of return. The alternate also requires Roseville to file for its next NRF Review no later than 90 days after a final decision in the policy phase of R01-09-001/I01-09-002. This proceeding is closed.

(Comr Kennedy)

Agenda 3122, Item 39a 10/30/2003 (Brown);

Agenda 3123, Item 39a 11/13/2003 (Lynch);

Agenda 3124, Item 54a 12/4/2003 (Brown);

Agenda 3125, Item 68a 12/18/2003 (Lynch);

Agenda 3126, Item 56a 1/8/2004 (Wood);

Agenda 3127, Item 33a 1/22/2004 (Peevey)

**42                   A01-02-012 - Verizon California Inc. (Verizon).**

[2976]           This decision grants Verizon authority to re-categorize its Business Billable Repair Service (BRS), Business Inside Wire Maintenance Service Plan (IWMP), and CentraNet IWMP from Category II to Category III service offerings. Verizon is also authorized to increase the first weekday hour or less of its Business BRS ceiling rate from \$85 to \$100. The decision denies Verizon authority to re-categorize its Residential BRS, Residential IWMP, and Landlord IWMP from Category II to Category III. This proceeding is closed.

(Comr Wood - ALJ Galvin)

*Pub. Util. Code § 311 – This item was mailed for Public Comment.*

*Pub. Util. Code §1701.1 -- This proceeding is categorized as Ratesetting.*

Agenda 3125, Item 72 12/18/2003 (Brown)

[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=165917](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=165917)

## Regular Agenda - Telecommunication Orders (continued)

**43 (Rev.)      A99-10-010 - GTE California Incorporated (now Verizon California, Inc.).**

[2987]

Verizon California Inc. (Verizon) has amended this 1999 application, which now seeks approval under Pub. Util. Code §851 of 18 lease and license agreements, as well as other relief. The amendment incorporates recommendations by the Commission's Office of Ratepayer Advocates (ORA) based on ORA's audit of Verizon in the fourth triennial review of the New Regulatory Framework, or NRF. This decision also give § 851 approval to Verizon's shared asset methodology of dealing with office space and office equipment used by three Verizon affiliates that perform administrative functions for Verizon and other subsidiaries of Verizon's parent company. We also approve an option by which Verizon in the future may make a triennial filing for Section 851 approval of space and office equipment leases by three affiliates, subject to the shared asset methodology of accounting and subject to annual advice letter updates. Our order closes this proceeding.

(Comr Wood - ALJ Walker)

*Pub. Util. Code § 311 – This item was mailed for Public Comment.*

*Pub. Util. Code §1701.1 -- This proceeding is categorized as Ratesetting.*

Agenda 3126, Item 59 1/8/2004 (Lynch);

Agenda 3127, Item 34 1/22/2004 (Kennedy)

02/04/2004 - This revision was not shown on the Agenda mailed to the public.

[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=161537](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=161537)

**43a (Rev.)      ALTERNATE TO ITEM 2987**

[3237]

Verizon California Inc. (Verizon) has amended this 1999 application, which now seeks approval under Pub. Util. Code §851 of 18 lease and license agreements, as well as other relief. The amendment incorporates recommendations by the Commission's Office of Ratepayer Advocates (ORA) based on ORA's audit of Verizon in the fourth triennial review of the New Regulatory Framework, or NRF. This decision also give § 851 approval to Verizon's shared asset methodology of dealing with office space and office equipment used by three Verizon affiliates that perform administrative functions for Verizon and other subsidiaries of Verizon's parent company. This approval relieves Verizon of the need to prepare space and office equipment leases with these three affiliates or to file those leases for Commission approval in formal §851 applications. This decision declines to adopt ORA's suggested procedural changes for use of the shared asset methodology.

(Comr Kennedy)

02/03/2004 - This item was not listed on the agenda distributed to the public.

[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=165945](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=165945)

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Regular Agenda - Telecommunication Orders (continued)**44** **R95-04-043 - Order Instituting Rulemaking on the Commission's own motion into**  
[3168] **competition for local exchange service.**

I95-04-044 - Related matters. This decision adopts wholesale prices for SBC Pacific's Directory Assistance Listing Information Service, pursuant to D02-02-025.

(Comr Peevey - ALJ Pulsifer)

*Pub. Util. Code § 311 – This item was mailed for Public Comment.*

[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=162615](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=162615)

**45** **I \_\_\_\_\_ - Order Instituting Investigation on Commission's own motion to determine the**  
[3170] **extent to which the public utility telephone service known as Voice over Internet Protocol**  
**should be exempted from regulatory requirements.**

Investigation on the appropriate regulatory framework for the provision of voice over internet protocol service in California.

Agenda 3127, Item 36 1/22/2004 (Kennedy)

[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=166498](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=166498)

**46** **A03-10-032 - WilTel Communications, LLC (WTC).**

[3173] A03-10-033 - Related matters. This decision grants A03-10-032 of WTC for approval of the transfer of control of WTC from Williams Communications Group, Inc. to WilTel Communications Group, Inc. (new WCG). In addition, the decision grants WTC's A03-10-033 for approval of the acquisition of a controlling interest in new WCG, resulting in a controlling interest in WTC, by Leucadia National Corporation. The approvals are prospective in nature. Also, the decision imposes fines totaling \$10,000 for failure to obtain advance approvals of the transfers. These proceedings are closed.  
(Comr Kennedy - ALJ O'Donnell)

*Pub. Util. Code § 311 – This item was mailed for Public Comment.*

*Pub. Util. Code §1701.1 -- This proceeding is categorized as Ratesetting.*

[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=165767](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=165767)

## Regular Agenda - Telecommunication Orders (continued)

**47**

[3174]

**A03-10-034 - WilTel Local Network, LLC (WLN).**

A03-10-035 - Related matters. This decision grants A03-10-034 of WLN for approval of the transfer of control of WLN from Williams Communications Group, Inc. to WilTel Communications Group, Inc. (new WCG). In addition, the decision grants WLN's A03-10-035 for approval of the acquisition of a controlling interest in new WCG, resulting in a controlling interest in WLN, by Leucadia National Corporation. The approvals are prospective in nature. Also, the decision imposes fines totaling \$10,000 for failure to obtain advance approvals of the transfers. These proceedings are closed.

(Comr Kennedy - ALJ O'Donnell)

*Pub. Util. Code § 311 – This item was mailed for Public Comment.*

*Pub. Util. Code §1701.1 -- This proceeding is categorized as Ratesetting.*

[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=165768](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=165768)

**48**

[3199]

**I02-06-003 - Investigation on the Commission's own motion into the operations, practices, and conduct of Pacific Bell Wireless LLC dba Cingular Wireless and related entities (collectively "Cingular") to determine whether Cingular has violated the laws, rules and regulations of this State in its sale of cellular telephone equipment and service and its collection of an Early Termination Fee and other penalties from consumers.**

This modified decision finds that Cingular's corporate practice and policy from January 2000 to April 31, 2002 violated (1) Pub.Util.Code §451 and D95-04-028 because it allowed no trial of its wireless service and prohibited early termination of wireless service contracts unless the customer paid an early termination fee of \$150 or more, even though testing wireless service by using the phone is the best way for a customer to ascertain whether the service meets his or her needs, and (2) violated §§451, 702 and 2896 and D95-04-028 because it failed to disclose known network problems during 2001 and, in spite of these problems, continued to prohibit refunds/returns and require early termination fees for early cancellation of wireless service contracts. Decision orders a penalty of \$12,140,000 and requires reparations to customers. This modified decision addresses the issues raised by the Commission's Consumer Protection and Safety Division, Utility Consumers Action Network, and Cingular in their appeals to the Presiding Officer's Decision filed October 9, 2003. This proceeding is closed.

(Comr Wood - ALJ Vieth)

*Pub. Util. Code § 1701.2(c), allows this modified Presiding Officer's Decision to be considered in Closed Session.*

*Pub. Util. Code §1701.1 -- This proceeding is categorized as Adjudicatory.*

**Regular Agenda - Telecommunication Resolutions and Reports****49**

[3108]

**Res T-16818 - SBC California (SBC).**

This resolution dismisses without prejudice SBC's request to waive the installation service charge for eligible residence and business customers returning from facilities-based carrier service. (Advice Letters 24278 and 24279, filed October 10, 2003)

*Pub. Util. Code § 311 – This item was mailed for Public Comment.*

Agenda 3127, Item 37 1/22/2004 (Staff)

[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=166188](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=166188)

**50 (Rev.)**

[3124]

**Res T-16817**

This resolution authorizes a revised program budget in the amount of \$68,404,768 for fiscal year 2004/05 and maintenance of the existing surcharge rate of 0.30% for the Deaf and Disabled Telecommunications Program. The budget increase is necessary to preserve opportunities for exercising necessary contract amendments and extensions for FY 04 / 05 expenditures if contracts for FY 04 / 05 are not approved by the necessary control agencies within the next four months by the end of the current fiscal year.

*Pub. Util. Code § 311 – This item was mailed for Public Comment.*

Agenda 3127, Item 40 1/22/2004 (Staff)

02/10/2004 - This revision was not shown on the Agenda mailed to the public.

[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=166664](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=166664)

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**Regular Agenda - Water/Sewer Orders****51                   A02-11-057 - Point Arena Water Works, Inc.**

[2368]           For an order authorizing a rate increase in rates subject to refund producing additional annual revenues of \$70,137 or 56.9% for the test year 2002. This interim decision determines that 1995 tax refunds will not be included in the scope of this 2002 test year general rate case.

(Comr Wood - ALJ Bushey)

*Pub. Util. Code § 311 – This item was mailed for Public Comment.*

*Pub. Util. Code §1701.1 -- This proceeding is categorized as Ratesetting.*

Agenda 3116, Item CA-16 7/10/2003 (Staff);

Agenda 3117, Item 5 8/21/2003 (Lynch);

Agenda 3118, Item 44 9/4/2003 (Lynch);

Agenda 3120, Item 48 10/2/2003 (Wood);

Agenda 3123, Item 45 11/13/2003 (Peevey);

Agenda 3125, Item 73 12/18/2003 (Wood)

**51a                   ALTERNATE TO ITEM 2368**

[2768]           This alternate grants the City of Point Arena an opportunity to have an evidentiary hearing regarding the accounting and ratemaking treatment of income tax refunds.

(Comr Lynch)

Agenda 3120, Item 48a 10/2/2003 (Wood);

Agenda 3123, Item 45a 11/13/2003 (Peevey);

Agenda 3125, Item 73a 12/18/2003 (Wood)

[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=156126](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=156126)

**52                   A02-11-007 - Southern California Water Company (SCWC).**

[3021]           This decision grants SCWC authority to increase rates by \$8,093,500 or 12.05% in the year 2003; by \$1,849,700 or 2.45% in the year 2004; and by \$2,738,900 or 3.54% in the year 2005 in its Region III Service Area. Rates for Region III will continue to be determined on a regional, rather than district specific, basis. SCWC's request to also increase rates for the General Office Allocation to the Region I and II Customer Service Areas (CSAs) is denied. Revenues derived from the lease of water rights to the City of Folsom will be used prospectively to offset the cost of service for the Arden-Cordova CSA. This proceeding is closed.

(Comr Peevey - ALJ Fukutome)

*Pub. Util. Code § 311 – This item was mailed for Public Comment.*

*Pub. Util. Code §1701.1 -- This proceeding is categorized as Ratesetting.*

Agenda 3126, Item 9 1/8/2004 (Lynch)

## Regular Agenda - Water/Sewer Orders (continued)

**52a****ALTERNATE TO ITEM 3021**

[3232]

This alternate decision finds that the utility violated Public Utilities Code Section 851 when it failed to seek Commission approval for a 1994 lease to the City of Folsom of rights to 5,000 acre feet per year of water from the American River. The utility is ordered to pay a fine of \$1,095,000, of which \$915,000 is suspended, for a net fine of \$180,000. The alternate also finds that the utility improperly recorded the lease revenues in a below-the-line account that only benefitted shareholders. The utility is ordered to credit the total amount of lease revenues, plus interest, on customer bills.

(Comr Lynch)

**Regular Agenda - Transportation/Rail Safety Orders****53**

[3214]

**I99-06-005 - Order to show cause why the Burlington Northern Santa Fe Railway Company and the Union Pacific Railroad Company should not be ordered to comply with California Labor Code Section 6906.**

Motion for reconsideration by President Peevey. This decision finds that California Labor Code Section 6906 (b) is repealed by implication. Consequently, D01-10-066 is vacated and I99-06-005 is closed.

(Comr Wood - ALJ DeUlloa)

*Pub. Util. Code § 311 – This item was mailed for Public Comment.*

*Pub. Util. Code §1701.1 -- This proceeding is categorized as Adjudicatory.*

[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=164275](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=164275)



**Regular Agenda - Other Utility Orders****54**

[3197]

**R \_\_\_\_\_ - Rulemaking for purposes of implementing certain statutory requirements set forth in AB 1735 for extending the deadline for completing ratesetting or quasi-legislative proceedings.**

Order Instituting Rulemaking to amend Rule 77.7, Rules of Practice and Procedure, to allow the Commission to issue case extension orders (<60 days) pursuant to Assembly Bill 1735.

[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=166494](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=166494)

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## Regular Agenda - Legislative Matters

**55**

**SB 584 (Alarcon)**

[2459]

Advertising.

Agenda 3116, Item LEG-8 7/10/2003 (Staff);

Agenda 3117, Item 128 8/21/2003 (Wood);

Agenda 3118, Item 50 9/4/2003 (Staff);

Agenda 3126, Item 63 1/8/2004 (Staff);

Agenda 3127, Item 44 1/22/2004 (Staff)

[http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC\\_ID=154295](http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=154295)

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**Regular Agenda - Commissioner's Reports**

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**Regular Agenda - Management Reports and Resolutions**

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## Closed Session

*This notice is furnished under Government Code Sections 11125 and 11126.3. The Commission will meet in Closed Session following the Public Session of its regularly scheduled meeting. In the Closed Session, the Commission may consider personnel matters as provided under Government Code Section 11126(a), institution of proceedings or disciplinary actions against any person or entity under the jurisdiction of the Commission as provided under Government Code Sections 11126(d)(2) and 11126(e)(2)(C)(i), and pending litigation as provided under Government Code Section 11126(e). Additional items may be added to the closed session agenda pursuant to Gov. Code Section 11126.3(d). If in Closed Session the Commission votes to appoint, employ, or dismiss a public employee, the Commission will thereafter reconvene in Open Session to make the disclosures required by Government Code Sections 11125.2 and 11126.3(f).*

### Closed Session - Application for Rehearing Compilation

Compilation of applications rehearing recently filed with the Commission.

*Gov. Code § 11126(e)(2)(B)(i), allows this item to be considered in Closed Session.*

**Closed Session - Non-Federal****56                    A00-11-038 - Conference with Legal Counsel - Application for Rehearing**

[3202]                    A00-11-056; A00-10-028 - Related matters.    Disposition of application for rehearing of D04-01-028 filed by Southern California Edison Company.    In D04-01-028, the Commission adopted an interim allocation of the Department of Water Resource's 2004 revenue requirement. *Gov. Code § 11126(e)(2)(B)(i), allows this item to be considered in Closed Session.*

**57                    A01-02-030 - Conference with Legal Counsel - Application for Rehearing**

[3204]                    Disposition of application for rehearing of D03-08-062 filed by the Office of Ratepayer Advocates.    In D03-08-062, the Commission authorized Southern California Edison Company to recover, as part of its distribution rates, certain Administrative and General costs booked into its Transmission Revenue Requirement Reclassification Memorandum Account. *Gov. Code § 11126(e)(2)(B)(i), allows this item to be considered in Closed Session.*

**Closed Session - Initiation of Litigation - Non-Federal**

Consideration of possible Commission initiation of, or intervention in, litigation.

*Gov. Code § 11126(e)(2)(C)(i), allows this item to be considered in Closed Session.*

**58**

[3207]

**Conference with Legal Counsel – Initiation of Enforcement Proceeding**

Deliberation on institution of proceeding or disciplinary actions against person or entities subject to Commission's jurisdiction. (Disclosure of case name would fail to protect the private economic or business reputation of the person or entity if the proceeding or disciplinary action is not commenced.)

*Gov. Code § 11126(e)(2)(C)(i), allows this item to be considered in Closed Session.*

*Gov. Code § 11126(d)(2), allows this item to be considered in Closed Session.*

**Closed Session - Threatened Litigation - Non-Federal**

Significant exposure to litigation

*Gov. Code § 11126(e)(2)(B), allows this item to be considered in Closed Session*



### **Closed Session - Personnel Matters**

Consideration of appointment, employment, evaluation of performance, or dismissal of a public employee or to hear complaints or charges brought against that employee by another person or employee.

*Gov. Code § 11126(a), allows this item to be considered in Closed Session*

**Closed Session - Threatened Litigation - Federal**

Significant exposure to litigation in federal agency or court proceedings.

*Gov. Code § 11126(e)(2)(B), allows this item to be considered in Closed Session*

### **Closed Session - Initiation of Litigation - Federal**

Consideration of possible Commission initiation of, or intervention in, federal agency or court proceedings.

*Gov. Code § 11126(e)(2)(C)(i), allows this item to be considered in Closed Session.*

**Closed Session - Federal**

- 61**                      **Case No. 01 30923 DM - Conference with Legal Counsel - Existing Litigation**  
[3144]                      Pacific Gas and Electric Company (Debtor), United States Bankruptcy Court, Northern District of California, San Francisco Division, Case No. 01 30923 DM.  
*Gov. Code § 11126(e)(2)(A), allows this item to be considered in Closed Session.*
- 62**                      **FERC Docket No. RP00-241-006 - Conference with Legal Counsel - Existing Litigation**  
[3147]                      Public Utilities Commission of the State of California v. El Paso Natural Gas Company, et al.  
*Gov. Code § 11126(e)(2)(A), allows this item to be considered in Closed Session.*
- 64**                      **FERC Docket Nos. ER03-409 and ER03-666 - Conference with Legal Counsel - Existing Litigation**  
[3200]                      Pacific Gas and Electric Company, FERC Docket Nos. ER03-409 and ER 03-666.  
*Gov. Code § 11126(e)(2)(A), allows this item to be considered in Closed Session.*

**Closed Session - FERC Docket No. EL00-95-000**

Conference with Legal Counsel - Existing Litigation; San Diego Gas & Electric Co., EL00-95-000

*Gov. Code § 11126(e)(2)(A), allows this item to be considered in Closed Session.*